

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 01-0306P

Gross and Adjusted Gross Income Tax
Calendar Years 1997 and 1998

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ISSUE(S)

I. **Tax Administration**—Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer is incorporated in Delaware and has two Indiana business locations. Upon audit it was discovered that the taxpayer failed to addback Property Taxes, an issue in the prior audit. The taxpayer also failed to report Indiana sales subject to gross income tax. Adjustments were made to the apportionment schedule for the property factor, the payroll factor, and the sales factor that increased the percentage for both years of the audit.

Taxpayer protests the penalty and states it had established reasonable cause for the positions taken on the original returns for the throwback rule; i.e. there are several states in which the taxpayer could document that it had payroll or another form of nexus creating activity in the states in question.

Taxpayer did not provide documentation to the auditor nor the department showing it created nexus in other states. In addition, taxpayer's audit showed other issues upon which the department relied to assess a negligence penalty.

I. **Tax Administration**—Penalty

DISCUSSION

Taxpayer, in a letter dated October 25, 2001 protested penalties assessed because there was no negligence or intentional disregard of Indiana tax regulations. Taxpayer further states it has established reasonable cause for the positions taken on the original returns and merely states it had nexus in several other states. No proof has been provided the auditor or the department.

Taxpayer made several errors, primarily; it failed to addback property taxes, an issue in the prior audit completed on March 7, 1996. Taxpayer also failed to report gross income for sales made in Indiana and made errors in the apportionment factors.

Taxpayer has not provided reasonable cause. The Department finds that a negligence penalty is proper.

FINDING

Taxpayer's protest is denied.

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